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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Ronald Mondgock	)	File Number: EB-06-PA-001
	)	
Former Licensee of Station KA3OMZ	)	NAL/Acct. No. 200732400002
	)	
Honeybrook, Pennsylvania	)	FRN: 0010-87-6589

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: August 15, 2007

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Ronald Mondgock, the former licensee of Novice Class Amateur Radio Service station KA3OMZ in Honeybrook, Pennsylvania, apparently willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended (“Act”)<sup>1</sup> by operating radio transmitting equipment on the frequencies 439.850 MHz and 147.560 MHz without a license. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended (“Act”),<sup>2</sup> that Mondgock is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

**II. BACKGROUND**

2. On June 3, 2006, the Philadelphia Office received information from a person who wanted to remain anonymous alleging that Mondgock was operating on frequencies which were not authorized by his Novice Class license. In response, the Philadelphia Office conducted an investigation between August 2006 and December 2006. The agents used direction finding techniques to determine that Mondgock operated radio transmitting equipment on the frequency 439.850 MHz from his residence on September 19, 2006 between 8:45 p.m. and 9:30 p.m. and from his vehicle on October 24, 2006, between 5:30 p.m. and 6:02 p.m. The agents also found that Mondgock was using the frequency 439.850 MHz as an input to a repeater station that he owned and operated on the frequency 147.560 MHz at One Commerce Square Building, 2005 Market Street, Philadelphia, Pennsylvania. Novice Class licensees are not permitted to operate on the frequencies 439.850 MHz and 147.560 MHz.<sup>3</sup>

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<sup>1</sup> 47 U.S.C. § 301.

<sup>2</sup> 47 U.S.C. § 503(b).

<sup>3</sup> Section 97.301(e) of the Rules, 47 C.F.R. § 97.301(e), specifies that an operator with a Novice Class Amateur Radio Service license can operate on the frequencies bands 3.675 MHz through 3.725 MHz, 7.100 MHz through 7.150 MHz, 21.10 MHz through 21.20 MHz, 28.10 MHz through 28.50 MHz, 222 MHz through 225 MHz and 1270 MHz through 1296 MHz.

3. Agents also determined that Mondgock's Novice Class license for amateur radio station KA3OMZ had been in dismissal status as of March 17, 2006. Although Mondgock had filed a timely renewal application on September 15, 2005, for his license that was scheduled to expire on December 14, 2005,<sup>4</sup> the renewal application was dismissed on March 18, 2006 because Mondgock failed to respond to Commission correspondence.<sup>5</sup> The Notice of Dismissal warned Mondgock that the dismissal was effective March 17, 2006, and that he "must cease operations until such time as you come into compliance with the Rules." On October 16, 2006, Mondgock filed another renewal application, which remains pending with the Commission.<sup>6</sup> Although Mondgock filed another renewal application, his authority to operate station KA3OMZ does not resume, if ever, until the Commission acts on his renewal application.<sup>7</sup> As a result, Mondgock did not have authority to operate station KA3OMZ as of the date of the dismissal of his first license renewal application, *i.e.*, March 17, 2006.

4. On November 20, 2006, agents from the Philadelphia Office interviewed Ronald Mondgock at his residence. During the interview, Mondgock admitted that he operates radio transmitting equipment on the frequency 439.850 MHz from his residence and vehicle and he owns and operates a repeater station on the frequency 147.560 MHz from the One Commerce Square in Philadelphia, Pennsylvania. Mondgock acknowledged that his Novice Class Amateur Radio Service Station License KA3OMZ was expired and that his license did not authorize him to operate on the frequencies 147.560 MHz and 439.850 MHz.

5. Immediately after the interview, the agents inspected the Kenwood K700 radio transmitter in Mondgock's vehicle. The agents turned on the radio transmitter and observed that the front panel digital display listed the frequency 147.560 MHz. When the agents conducted a test transmission with the radio transmitter, they measured the frequency 147.560 MHz with an Optoelectronics Frequency Counter.

6. On December 20, 2006, the Philadelphia Office issued a Letter of Inquiry to Mondgock to request information about the operation of station KA3OMZ. By letter dated January 7, 2007, Mondgock submitted a response stating that he operated radio transmitting equipment on the frequency 439.850 MHz from his vehicle and residence on September 19, 2006 and October 24, 2006. Mondgock also stated that he owned and operated a repeater station on the frequency 147.560 MHz at the One Commerce Square in Philadelphia, Pennsylvania. In the response, Mondgock stated he had been operating on the frequency 439.850 MHz for about 2 years and that he had no authorization to operate on the frequencies 147.560 MHz and 439.850 MHz.

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<sup>4</sup> Section 97.21(a)(3)(iii) provides that, for the type of license held by Mondgock, a renewal application must be filed in accordance with Section 1.913 of the Rules and if the renewal application is filed on or before the license expiration date, "the license operating authority is continued until the final disposition of the application."

<sup>5</sup> The Notice of Dismissal stated that Mondgock failed to reply to a Citation dated July 2, 2004. In that Citation, Mondgock was warned that, *inter alia*, he had operated on unauthorized frequencies in violation of Section 97.301(e) of the Rules and he was directed to respond to each of the alleged violations within twenty (20) days. We also note that Mondgock received two additional letters regarding his failure to respond to the July 2, 2004 letter. See Letters from Riley Hollingsworth, Special Counsel, Enforcement, to Ronald Mondgock, dated November 15, 2004 and February 7, 2006.

<sup>6</sup> We also note that, on January 3, 2007, Mondgock filed another application (File No. 0002867438) for the renewal of the license KA3OMZ. The Commission dismissed that application because it was a duplicate of the renewal application that is pending with the Commission.

<sup>7</sup> Section 97.21(b) provides that, if a renewal application is not filed by the license expiration date, a renewal application may be filed during a 2 year filing grace period, but "unless and until the license grant is renewed, no privileges in this Part are conferred."

### III. DISCUSSION

7. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term “willful” as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.<sup>8</sup> The term “repeated” means the commission or omission of such act more than once or for more than one day.<sup>9</sup>

8. Section 301 of the Act requires that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license. Mondgock’s authority to operate station KA3OMZ terminated on March 17, 2006 when his renewal application was dismissed for failure to respond to Commission correspondence. In the Notice of Dismissal issued on March 18, 2006, Mondgock was warned to immediately cease operations until he could come into compliance with the Commission’s Rules.<sup>10</sup> Notwithstanding this warning, on September 19, 2006, and October 24, 2006, Commission agents determined that Mondgock operated radio transmitting equipment from his residence and vehicle, respectively, on the frequency 439.850 MHz. Agents further determined that Mondgock operated a repeater station on 147.560 MHz. Furthermore, even if the license for KA3OMZ had been valid on September 19, 2006 and October 24, 2006, Mondgock’s Novice Class license would not have authorized him to operate on the frequencies 147.560 MHz and 439.850 MHz. Because Mondgock operated an amateur radio station after being warned that he no longer had authority to do so and because he admitted to such unauthorized operation, we find that the violation was willful. Because the violation continued for more than one day, it was repeated.

9. Based on the evidence before us, we find that Mondgock apparently willfully and repeatedly violated Section 301 of the Act by operating an amateur radio station without a valid license.

10. Pursuant to *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, (“*Forfeiture Policy Statement*”), and Section 1.80 of the Rules, the base forfeiture amount for operating radio transmitting equipment without an instrument of authorization is ten thousand dollars (\$10,000).<sup>11</sup> In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.<sup>12</sup> Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that Mondgock is apparently liable for a \$10,000 forfeiture.

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<sup>8</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act....” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>9</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”

<sup>10</sup> As noted above, Section 97.21(b) provides that, for renewal applications filed after the license expiration date, “unless and until the license grant is renewed, no privileges in this Part are conferred.”

<sup>11</sup> 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. §1.80.

<sup>12</sup> 47 U.S.C. § 503(b)(2)(E).

#### IV. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, 0.314 and 1.80 of the Commission's Rules, Ronald Mondgock is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of Section 301 of the Act.<sup>13</sup>

12. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Ronald Mondgock **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

14. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Northeast Region, Philadelphia Office, One Oxford Valley Building, Suite 404, 2300 East Lincoln Highway, Langhorne, Pennsylvania 19047 and must include the NAL/Acct. No. referenced in the caption.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. Requests for payment of the full amount of this Notice of Apparent Liability for Forfeiture under an installment plan should be sent to: Associate Managing Director, Financial Operations, 445 12th Street, S.W., Room 1A625, Washington, D.C. 20554.<sup>8</sup>

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<sup>13</sup> 47 U.S.C. §§ 503(b) and 301, 47 C.F.R. §§ 0.111, 0.311, 0.314 and 1.80.

<sup>8</sup> See 47 C.F.R. § 1.1914.

**Federal Communications Commission**

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17. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Ronald Mondgock at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Gene Stanbro  
District Director  
Philadelphia Office  
Northeast Region  
Enforcement Bureau